

1 Joseph Guy Maiorano, Esq. (SBN 113876)  
The Law Offices of Joseph G. Maiorano  
2 402 West Broadway, 27th Floor  
San Diego, California 92101  
3 Telephone: (619)230-1612  
Fax: (619) 230-1839  
4

5 Counsel for Respondent  
DAMON ABNOS  
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9 **UNITED STATES DISTRICT COURT FOR THE**  
10 **SOUTHERN DISTRICT OF CALIFORNIA**

11 SELTZER CAPLAN McMAHON VITEK,  
12 a Law Corporation,

13  
14 Petitioner,

15 v.

16 DAMON ABNOS, an individual,

17 Respondent.  
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Case No. 3:08-cv-00201-WQH-WMc

**[PROPOSED] SUPPLEMENTAL  
NOTICE OF REMOVAL OF CIVIL  
ACTION TO THE UNITED STATES  
DISTRICT COURT UNDER 28 U.S.C.  
§§ 1441, 1446, 1332(a)**

**(DIVERSITY OF CITIZENSHIP  
JURISDICTION)**

1 TO THE JUDGES OF THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN  
2 DISTRICT OF CALIFORNIA AND TO PETITIONER AND THEIR COUNSEL OF RECORD,  
3 SELTZER CAPLAN McMAHON VITEK, A LAW CORPORATION:

4  
5 PLEASE TAKE NOTICE THAT Respondent DAMON ABNOS hereby supplements his Notice of  
6 Removal as described below.

7  
8 1. On February 1, 2008, Respondent filed his Notice of Removal of Civil Action to the  
9 United States District Court under 28 U.S.C. §§ 1441, 1446 and 1332(a).

10 2. Respondent attached both his Petition to Vacate Arbitration Award filed in the United  
11 States District Court for the Southern District of California (Case No. 08 CV 0058 DMS WMc) as  
12 Exhibit "B", and Petitioner's Petition to Confirm Contractual Arbitration Award filed in the  
13 previously dismissed State Court action (Case No. GIC 864098) as Exhibit "C".

14 3. Because the underlying case (GIC 864098) was dismissed and the Petitions to Confirm  
15 and to Vacate the Arbitration Award comprise a new action, Respondent is informed and believes  
16 that Exhibits "B" and "C" constitute all process, pleadings, and orders received in this action.

17 4. In attaching Exhibit "C" to the original Notice of Removal of Civil Action, Respondent  
18 inadvertently neglected to attach a complete copy, which would have included Petitioner's Notice of  
19 Hearing and Petition, alerting Respondent to the date and time of the hearing on his Petition to  
20 Confirm the Arbitration Award.

21 5. A copy of the Notice of Hearing and Petition which was inadvertently omitted in the  
22 original Notice of Removal is attached hereto as Exhibit "F".

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1           7. Notice of this supplemental removal is being given to both Petitioner and to the Clerk of  
2 the Court of San Diego County Superior Court. True and correct copies of these notices are attached  
3 as Exhibits "G" and "H." Proof of service of the Supplemental Notice to Adverse Party of Removal  
4 to Federal Court will be filed with this Court immediately after the Superior Court filing is  
5 accomplished.

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7  
8 Dated: April 11, 2008

**Law Offices of Joseph G. Maiorano**

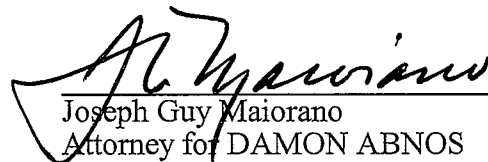
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11 Joseph Guy Maiorano  
12 Attorney for DAMON ABNOS  
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Exhibit “F”

FILED  
CIVIL BUSINESS OFFICE 7  
CENTRAL DIVISION

08 JAN 17 PM 2:06

CLERK OF SUPERIOR COURT  
SAN DIEGO COUNTY, CA

1 Christopher L. Ludmer, Esq. (SBN 208411)  
2 SELTZER CAPLAN McMAHON VITEK  
3 A Law Corporation  
4 750 B Street, 2100 Symphony Towers  
San Diego, California 92101-8177  
Telephone: (619) 685-3003  
Facsimile: (619) 685-3100

5 Attorneys for Defendant LEE HEJMANOWSKI and SELTZER CAPLAN McMAHON VITEK  
6 and Cross-Complainant SELTZER CAPLAN McMAHON VITEK  
7

8 SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO  
9 (CENTRAL DIVISION)

10 DAMON ABNOS, an individual,

11 Plaintiff,

12 vs.

13 LEE HEJMANOWSKI, an individual;  
14 SELTZER CAPLAN McMAHON VITEK, a  
Law Corporation; and DOES 1 to 10,

15 Defendants.  
16

17 AND RELATED CROSS-ACTION  
18

CASE NO. GIC 864098

19 NOTICE OF PETITION AND  
20 PETITION TO CONFIRM  
21 ARBITRATION AWARD

Judge: Hon. William R. Nevitt, Jr.  
Date: February 29, 2008  
Time: 1:30 p.m.  
Dept.: 64

22 TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

23 PLEASE TAKE NOTICE that on February 29, 2008, at 1:30 p.m., or as soon thereafter as  
24 this matter can be heard, in Department 64 of the above-entitled court, Defendants LEE  
25 HEJMANOWSKI and SELTZER CAPLAN McMAHON VITEK, and Cross-Complainant SELTZER  
26 CAPLAN McMAHON VITEK, will and hereby do petition to confirm the arbitration award dated  
27 December 26, 2007, by the Hon. Anita Rae Shapiro (Ret.).

28 The petition will be based upon this notice and petition (previously filed January 8, 2008); the  
arbitration award dated December 26, 2007; the arbitration agreement between the parties dated

1 November 23, 2003; the stipulation of the parties for binding arbitration dated November 16, 2006; the  
2 pleadings, records and files in this action; and such further oral argument and documentary evidence  
3 and argument may be presented at or before the hearing.

4 Dated: January 17, 2008

SELTZER CAPLAN MCMAHON VITEK  
A Law Corporation

6 By: 

Christopher L. Ludmer

7 ATTORNEYS FOR Defendants LEE HEJMANOWSKI and  
8 SELTZER CAPLAN McMAHON VITEK

COPY

FILED  
CIVIL BUSINESS OFFICE 7  
CENTRAL DIVISION

08 JAN 17 PM 2:06

CLERK OF SUPERIOR COURT  
SAN DIEGO COUNTY, CA

1 Christopher L. Ludmer, Esq. (SBN 208411)  
2 SELTZER CAPLAN MCMAHON VITEK  
3 A Law Corporation  
4 750 B Street, 2100 Symphony Towers  
5 San Diego, California 92101-8177  
6 Telephone: (619) 685-3003  
7 Facsimile: (619) 685-3100

8 Attorneys for Defendants LEE HEJMANOWSKI and SELTZER CAPLAN McMAHON VITEK  
9 and Cross-Complainant SELTZER CAPLAN McMAHON VITEK

10 SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN DIEGO  
11 (CENTRAL DIVISION)

12 DAMON ABNOS.

13 Plaintiff,

14 vs.

15 LEE HEJMANOWSKI, ET AL.

16 Defendants.

CASE NO. GIC 864098

PROOF OF PERSONAL SERVICE

17 AND RELATED CROSS-ACTION

18 (1) I am over 18 years of age and not a party to this action.

19 (2) I served the following documents:

20 NOTICE OF PETITION AND PETITION TO CONFIRM ARBITRATION AWARD;  
21 PETITION TO CONFIRM ARBITRATION AWARD

22 (3) I caused such documents to be delivered by hand to the office of the addressee by Knox

23 Attorney Service

24 (a) Name: Joseph G. Maiorano, Esq.

25 (b) Address: 402 West Broadway, 27<sup>th</sup> Floor, San Diego, California 92101

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27 ///

1 (4) I am employed in the County of San Diego, State of California. My business address is 750 B  
2 Street, Suite 2100, San Diego, California 92101.

3 (5) I declare under penalty of perjury under the laws of the state of California that the foregoing is  
4 true and correct.

5 Dated: January 17, 2008

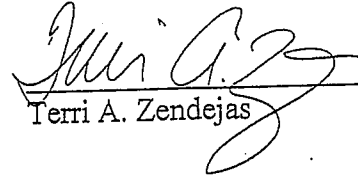
  
Terri A. Zendejas



Exhibit “G”

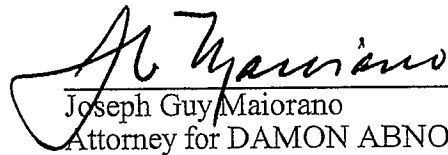


1 TO PETITIONER SELTZER CAPLAN McMAHON VITEK, a Law Corporation:

2  
3 PLEASE TAKE NOTICE THAT a Supplemental Notice of Removal of this action was filed  
4 in the United States District Court for the Southern District of California on April 11, 2008. A copy  
5 of said Supplemental Notice of Removal and supporting exhibits are attached to this Notice, and  
6 served and filed herewith.

7  
8 Dated: April 11, 2008

Law Offices of Joseph G. Maiorano

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11 Joseph Guy Maiorano  
12 Attorney for DAMON ABNOS  
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27 Ex. 6; Pg. 2  
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*Seltzer Caplan v. Abnos*

San Diego Superior Court Case No. GIC864098

**PROOF OF SERVICE**

I am a resident of the State of California, over the age of eighteen years, and not a party to this action. I served the following:

- 1) SUPPLEMENTAL NOTICE TO STATE COURT OF REMOVAL OF CIVIL ACTION TO THE UNITED STATES DISTRICT COURT.
- 2) [PROPOSED] SUPPLEMENTAL NOTICE TO ADVERSE PARTY OF REMOVAL OF CIVIL ACTION TO THE UNITED STATES DISTRICT COURT.

On the parties in this action addressed as follows:

Christopher Ludmer  
Seltzer Caplan McMahon Vitek  
750 B Street, Suite 2100  
San Diego, CA 92101  
Tel: (619) 685-3122

- ☐ by transmitting via facsimile the document(s) listed above to the fax number(s) set forth above on this date.
- ☒ by placing the document(s) listed above in a sealed envelope with postage fully prepaid, in the United States mail at 402 West Broadway, 27<sup>th</sup> Floor, San Diego, California, addressed as set forth above on this date.
- ☐ by personally delivering the document(s) listed above to the person(s) at the address(es) set forth above on this date.

I declare under penalty of perjury under the laws of the state of California that the above is true and correct. Executed this 11<sup>th</sup> day of April, 2008.


  
Anne Donovan

Exhibit “H”

Joseph Guy Maiorano, Esq. (SBN 113876)  
The Law Offices of Joseph G. Maiorano  
402 West Broadway, 27th Floor  
San Diego, California 92101  
Telephone: (619)230-1612  
Fax: (619) 230-1839

Counsel for Respondent  
DAMON ABNOS

**SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF SAN DIEGO**

SELTZER CAPLAN McMAHON VITEK,  
a Law Corporation,

Petitioner,

V.

DAMON ABNOS, an individual,

Respondent.

Case No. GIC 864098

**SUPPLEMENTAL NOTICE TO  
STATE COURT OF REMOVAL OF  
CIVIL ACTION TO THE UNITED  
STATES DISTRICT COURT**

Judge William R. Nevitt, Jr.

Dept. 64

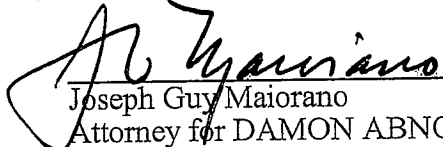
Ex. 4; Pg. 1

1 TO THE CLERK OF THE SUPERIOR COURT FOR THE COUNTY OF SAN DIEGO:

2  
3 Attached hereto as Exhibit "1" is a true and correct copy of the [PROPOSED]  
4 SUPPLEMENTAL NOTICE OF REMOVAL OF CIVIL ACTION TO THE UNITED STATES  
5 DISTRICT COURT UNDER 28 U.S.C. SECTIONS 1441, 1446, 1332(a) ("Supplemental Notice of  
6 Removal"). The original Supplemental Notice of Removal was filed with the United States District  
7 Court for the Southern District of California with the attached exhibits on April 11, 2008.

8  
9  
10  
11 Dated: April 11, 2008

Law Offices of Joseph G. Maiorano

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14 Joseph Guy Maiorano  
15 Attorney for DAMON ABNOS  
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27 Ex. H; Pg. 2  
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*Seltzer Caplan v. Abnos*  
San Diego Superior Court Case No. GIC864098

**PROOF OF SERVICE**

I am a resident of the State of California, over the age of eighteen years, and not a party to this action. I served the following:

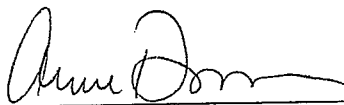
- 1) SUPPLEMENTAL NOTICE TO STATE COURT OF REMOVAL OF CIVIL ACTION TO THE UNITED STATES DISTRICT COURT.
- 2) [PROPOSED] SUPPLEMENTAL NOTICE TO ADVERSE PARTY OF REMOVAL OF CIVIL ACTION TO THE UNITED STATES DISTRICT COURT.

On the parties in this action addressed as follows:

Christopher Ludmer  
Seltzer Caplan McMahon Vitek  
750 B Street, Suite 2100  
San Diego, CA 92101  
Tel: (619) 685-3122

- ☐ by transmitting via facsimile the document(s) listed above to the fax number(s) set forth above on this date.
- ☒ by placing the document(s) listed above in a sealed envelope with postage fully prepaid, in the United States mail at 402 West Broadway, 27<sup>th</sup> Floor, San Diego, California, addressed as set forth above on this date.
- ☐ by personally delivering the document(s) listed above to the person(s) at the address(es) set forth above on this date.

I declare under penalty of perjury under the laws of the state of California that the above is true and correct. Executed this 11<sup>th</sup> day of April, 2008.

  
Anne Donovan